

## **REMARKS**

Claims 1-5 were pending in the application. Claims 1-5 are being canceled. New claims 6-19 are being added. The language of new claims 6 and 14 is based on the language of claims 1 and 2 as originally filed. The language of new claims 7, 8, 9, 15, 16 is based on description to Fig. 2. The language of new claims 10 and 17, 11 and 18, 12 and 19 is based on claims 3, 4, 5, respectively, as originally filed.

### ***Priority under 35 U.S.C. § 119***

Applicant notes that the Examiner acknowledged a claim for foreign priority under 35 U.S.C. § 119 to Polish Patent Application No. P-358659, filed February 10, 2003, and confirmed that all certified copies of the priority documents have been received.

### ***IDS***

Applicant notes with appreciation that the Examiner has considered the information disclosure statement (IDS) submitted on February 10, 2004.

All outstanding requirements will now be addressed in the order they appear in the Office Action mailed November 13, 2007.

### ***Drawings***

4. The drawings are objected to because Fig. 1 should be designated by legend as "Prior Art." Applicant has amended Fig. 1 to obviate the Examiner's objection and has added the legend "Prior Art".

### ***Claims Rejections - 35 USC §112***

Claims 1-5 stand rejected under 35 U.S.C. 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as invention.

Applicant has canceled claims 1-5 and submitted new claims to obviate the Examiner's rejection.

***Claims Rejections - 35 USC §103***

**2-3.** Claims 1-5 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Stalker, US Patent Application Publication No. 2002/0091816 in view of Chari US Patent No. 6,038,319.

Applicant respectfully disagrees.

Stalker, U.S. Patent Publication No. 2002/0091916, recites: "... BFS server 12 is the component responsible for storing, assembling and delivering modules across the network 16. While the following discussion is provided with reference to one data carousel, it is readily understood that the explanation is applicable to more than one data carousel. A top level data carousel contains at least one module known as the BFS directory which includes the module names for all of the other modules on this or any other data carousel. As modules are added to the data carousel, BFS server 12 creates a module name (i.e., identifier) for each new module and then updates the BFS directory structure. Similarly, when modules are updated and/or deleted from the data carousel, the BFS directory structure is updated by BFS server 12. Applications residing on a multimedia client 14 in turn utilize the BFS directory to access modules contained on the broadcast data carousel. The network 16 may employ any underlying transport protocol (e.g., MPEG transport and/or UDP/IP) which has the ability to deliver data packets across the network to the client..."

And further Stalker recites "...In addition to registering each application request, an open file component 36A of the interest manager 36 will interface with the BFS directory 50 to ensure that the requested module exists on the data carousel. Generally, DII messages contain a directory of all of the modules on the carousel and are periodically received (e.g., multiple times per second) by the DII processor 44. As part of this synchronization process, the open file component 36A also verifies that the module exists in accordance to the most recently

received DII message. Next, it checks that the version number for the module retrieved from the BFS directory matches the version for that module included in the DII message. In this way, the interest manager 36 ensures that the applications request to open a module is synchronized with the module contained on the data carousel. Because modules are delivered on multiple sources at different rates, it is important to implement this synchronization process; otherwise an application may read data from either an older version of the module or possibly even a newer version of the module....”

Therefore the solution, disclosed by Stalker, discloses a mandatory dependency on the directory module when considering the order of data retrieval, which teaches away from the present method.

As claimed in the new independent claims 6, 14, 20, retrieval of data is not hierarchy-dependent. The download has an order of data retrieval from a carousel of objects that is independent of the hierarchy of modules. This feature has been clarified in the newly presented independent claim 6. Support for this amendment can be found in Fig. 2 and Fig. 5 as well as in their descriptions.

Additionally the preamble of the newly presented independent claim 6, clarifies the relation of an object versus a module and a carousel. Support for this amendment can be found in Fig. 3A and Fig. 3B as well as in paragraph 0026 and paragraph 0027 of the published patent application.

A new claim 13 is being added, which relates to a computer-readable memory containing a computer program that is executable by a processor to perform the method recited in claim 6. The support for such an amendment can be found in the published specification with reference to paragraph 0045 of the published patent application. As has been disclosed, the receiver comprises an application, stored within the receiver, that controls data retrieval from a stream and subsequently stores these data in a memory of the receiver, for example as a part of an appropriate file system. Moreover the paragraph 0005 of the published patent

application clarifies that the method is applicable in middleware software, such as MHP stored in and executed by a digital television receiver.

Therefore, the Applicant believes that the pending claims are not anticipated by Stalker.

***CONCLUSION***

In view of the foregoing amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. Should an extension of time be required, Applicant hereby petitions for same and requests that the extension fee and any other fee required for timely consideration of this submission only be charged to **Deposit Account No. 503182**.

Customer Number: **33,794**

Respectfully Submitted,

/Matthias Scholl/

Dr. Matthias Scholl, Esq.  
Reg. No. 54,947

Date: January 30, 2008